

REMARKS

Claims 1 - 10 are pending in the present application. Claims 9 and 10 are newly added.

Applicant amended the specification to correct a couple of typographical errors.

The application, as originally filed, contained eight claims. However, of those eight original claims, the last four were incorrectly numbered. That is, rather than being designated as claims 5 – 8, they were designated as claims 6 – 9. In a preliminary amendment that was filed concurrently with the application, Applicant corrected the numbering of the claims by designating the last four claims as claims 5 – 8. Thus, pursuant to the preliminary amendment, the application contained 8 claims that were numbered as claims 1 – 8.

Page 1 of the Office Action includes a section entitled “Claims Objections”, but it does not affirmatively state that it is objecting to the claims. The Office Action recognizes the misnumbering and renumbering of the claims, as described above, and states that claims 1 – 8 are pending in the application. As such, Applicants are assuming that there is no pending objection to the numbering of claims 1 – 8. Applicant respectfully requests that if Applicant is mistaken, the Examiner please clarify the objection in the next office action.

In the present document, Applicant is adding two claims. Since the Office Action states that claims 1 – 8 are pending, Applicant is designating the newly added claims as claim numbers 9 and 10.

On page 1 of the Office Action, claims 5 and 7 are rejected under 35 U.S.C. 112, second paragraph as being indefinite. More specifically, the Office Action states that the use of the term “and/or” is indefinite. Accordingly, Applicants amended claims 5 and 7 to delete the term “and/or”. This amendment resulted in a deletion of recitals from claims 5 and 7, and as such, Applicant added claims 9 and 10 to retain the recitals that were deleted from claims 5 and 7, respectively.

On page 2 of the Office Action, claims 1 – 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,097,873 to Filas et al. (hereinafter the Filas et al. patent”) in

view of U.S. Patent No. 5,087,122 to Ostrander et al. (hereinafter “the Ostrander et al. patent”). Applicant respectfully traverses this rejection.

Claim 1 provides for an optical attenuator for attenuating the intensity of an input light beam. The optical attenuator includes, inter alia, a scattering element for scattering the input light beam into a range of scattering directions. The scattering element is provided with a varying scattering angle distribution in order to control the attenuation.

The Office Action suggests that such a scattering element is disclosed by the Filas et al. patent as an attenuator disc 70 and a passage at col. 9 lines 44 – 55, which includes the statement that “particles could be incorporated into the silicone matrix to alter the forward scattering angle of incident light and thereby control the attenuation while minimizing reflection.” This passage appears to contain the only occurrence of the phrase “scattering angle” in the Filas et al. patent.

Applicant wishes for the Examiner to note that the Filas et al. patent refers to a **scattering angle**, but it does not describe a **varying scattering angle distribution**. Consequently, the Filas et al. patent neither describes nor suggests a scattering element provided with a varying scattering angle distribution in order to control the attenuation, as recited in claim 1.

The Office Action introduced the Ostrander et al. patent because of its disclosure of a beam distributor. The Office Action does not suggest, and Applicant has not found, any disclosure of a scattering element, much less a scattering element provided with a varying scattering angle distribution in order to control the attenuation, as recited in claim 1.

Consequently, the Filas et al. and Ostrander et al. patents, whether considered individually or in combination with one another, neither describe nor suggest all of the elements of claim 1. Thus, claim 1 is patentable over the cited combination of references.

Claims 2 – 7 depend from claim 1. By virtue of this dependence, claims 2 – 7 are also patentable over the cited combination of references.

Claim 8 is an independent claim that provides for a method of attenuating the intensity of an input light beam. The method includes, inter alia, scattering the input light beam into a range of scattering directions, and varying scattering angle distribution in order to control the attenuation.

Thus, similarly to claim 1, claim 8 recites varying scattering angle distribution. Hence, for reasons similar to that provided above in support of claim 1, Applicant submits that claim 8 is patentable over the cited combination of the Filas et al. and Ostrander et al. patents.

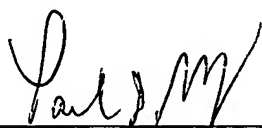
Applicant respectfully requests reconsideration and withdrawal of the section 103(a) rejection of claims 1 – 8.

On 19 AUG 2003, Applicant filed an Information Disclosure Statement (IDS). The Office Action has not yet considered the IDS. Applicant respectfully requests that the Office consider the IDS for the next office action.

In view of the foregoing, Applicant respectfully submits that all claims presented in this application patentably distinguish over the prior art. Accordingly, Applicant respectfully requests favorable consideration and that this application be passed to allowance.

Respectfully submitted,

1-2-04
Date



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